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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/455,837	12/07/1999	ARTHUR C. LAMB	15886-451	5624
29989	7590 01/16/2004		EXAMINER	
HICKMAN PALERMO TRUONG & BECKER, LLP			SINGH, RACHNA	
	1600 WILLOW STREET SAN JOSE, CA 95125		ART UNIT	PAPER NUMBER
			2176	8
			DATE MAILED: 01/16/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

Offic Action Summary Examiner							
Examiner Ratchna Singh 2176		Application No.	Applicant(s)				
Rachna Singh 2176		09/455,837	LAMB ET AL.				
The MALING DATE of this communication appears on the cover sheet with the correspondenc address—Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. THE MAILING DATE OF THIS COMMUNICATION. The main may be availation used the provisions of 3 CFR 1.13(a), in re-event, however, may a reply be timely filed If the period for reply appealled above it less than thirty (30) days, a reply with the statisticy minimum of hinty (30) days with be considered timely. If the period for reply appealled above its less than thirty (30) days, a reply with the statisticy period will appeal and will be considered timely. If the period for reply appealled above its less than thirty (30) days, a reply with the statisticy period will appeal and the remailing date of this communication, even if timely filed, may reduce any search part time adjustment. See 37 CFR 1.76(b). Status Status This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disp sition of Claims 4) Silven this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disp sition of Claims 4) Silven this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disp sition of Claims 4) Claim(s) 17-27 and 39-56 is/are replected. 7) Claim(s) 17-27 and 39-56 is/are rejected. 7) Claim(s) is/are allowed. 6) Claim(s) is/are allowed. 6) Claim(s) is/are allowed. 6) Claim(s) is/are allowed. 10) The drawing(s) filed on is/are replected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held	Offic Action Summary	Examiner	Art Unit				
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THE MAILING DATE OF THIS COMMUNICATION. Extensions of time mybe available under the provides of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (b) MONTHS from the mailing date of this communication. It NO period for reply is specified above, the maximum statutory period within the statutory information of the trip. If NO period for reply is specified above, the maximum statutory period stage) within the statutory information of the communication. Fallow to reply within the set or extended period for reply will. by statute, cause the application to become ARANDONED (38 U.S.C. § 133). Any reply recorded by the Office with fram there maining date of this communication, even if timely filed, may reduce any. **Status** 1) Responsive to communication(s) filled on **20 October 2003**. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. **Disp sition of Claims** 4) Claim(s) **17-27 and 39-56 is/are pending in the application. 4a) Of the above claim(s) is/are elipeded to. 3) Claim(s) **17-27 and 39-56 is/are rejected.** Totalim(s) is/are allowed. 6) Claim(s) **17-27 and 39-56 is/are rejected.** Totalim(s) is/are allowed. 6) Claim(s) **17-27 and 39-56 is/are rejected.** 3p) The drawing(s) filed on is/are rejected to. 8) Claim(s) **17-27 and 39-56 is/are rejected.** 10) The drawing(s) filed on is/are rejected to. 8) Claim(s) **17-27 and 39-56 is/are rejected to.** 11) The proposed drawing correction filed on is/are rejected to by the Examiner. 12) The carmination of the provided of the prov		ears on the cover sheet with the c	orrespondenc address				
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Page 2

Application/Control Number: 09/455,837

Art Unit: 2176

DETAILED ACTION

1. This office action is responsive to communications: application filed 12/7/99; amendment filed 10/20/03.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 17-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 17-27 of U.S. Patent No. 6,034,686. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 17-27 of the application cite a computer- readable medium and column 3 of U.S. Patent No. 6,034,686 cites "the computer system includes data processing resources for executing the program" (compare to "computer readable medium"). Thus, the subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter. Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding

Application/Control Number: 09/455,837

Art Unit: 2176

to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

- 4. Claims 39-54 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-16 of U.S. Patent No. 6,034,686. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 17-27 of the application cite a computer-readable medium and column 3 of U.S. Patent No. 6,034,686 cites "the computer system includes data processing resources for executing the program" (compare to "computer readable medium"). Thus, the subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter. Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.
- 5. Claims 55-56 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 15 and 16 of U.S. Patent No. 6,034,686. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 55-56 of the application are carrying out the same steps as claims 15 and 16 of U.S. Patent No. 6,034,686 with respect to

Application/Control Number: 09/455,837

Art Unit: 2176

independent claim 39. Thus claims 55-56 are broader than claims 15 and 16 of U.S. Patent No. 6,034,686; however, it the steps are disclosed in the patent.

Moreover, the subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter. Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachna Singh whose telephone number is 703.305.1952. The examiner can normally be reached on M-F (8:30-5).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 703.305.9792. The fax phone number for the organization where this application or proceeding is assigned is 703.872.9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.305.3900.

RS 12/31/03

SANJIV SHAH
PRIMARY EXAMINER